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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/601,751	08/07/2000	BERTIL R.R. PERSSON	U012883-2	9637

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EXAMINER

OROPEZA, FRANCES P

ART UNIT PAPER NUMBER

3762

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/601,751

Applicant(s)

PERSSON ET AL.

Examiner

Frances P. Oropeza

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/19/04 and 1/24/05 (Amendments).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 42-73, 75-79 and 81-85 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 44-64, 67, 68, 70, 72, 73, 75, 77-79, 81 and 83-85 is/are allowed.
- 6) ☒ Claim(s) 42, 43, 65, 66, 69 and 82 is/are rejected.
- 7) ☒ Claim(s) 71 and 76 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. The Applicant's arguments filed 11/19/04 are convincing hence the rejection of record is withdrawn and a new rejection established in the subsequent paragraphs.

Claim Rejections - 35 USC § 103

2. Claims 42, 43, 65, 66, 69 and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hofmann (US 6208893) in view of Willimason IV et al. (US 5817093).

Hofmann discloses an electroporation apparatus comprising a high voltage pulse generator (12) and a connective electrode template to provide square pulse waves to enable optimal delivery of chemotherapeutic agent(s) to interstitial tumors, the template supporting partially insulated needle electrodes, the electrodes being secured in holes in the fixture (abstract; figure 1; col. 2 @ 10-23; col. 4 @ 42-49; col. 4 @ 63 – col. 5 @ 28; col. 7 @ 46-58; col. 8 @ 45-54; col. 9 @ 8-15; col. 10 @ 1-4; col. 11 @ 46-53).

As discussed in the previous paragraph, Hofmann discloses the claimed invention except:

- an impedance measuring unit to measure the impedance at the electrodes before, during or after pulse application (claim 42),
- a registration and conversion means to receive signals from the impedance measuring means that are used to control the pulses produced by the high voltage generator (claim 42),
- performing treatment until the impedance increases/decreases (claims 65,66), and
- a sensor in the restricted region (claim 82).

Williamson et al. teach medical device control using query electrodes (sensors), an impedance measuring unit, and control system (registration and conversion means) for the purpose of regulating the energy of the treatment device. The treatment period is dependent on changes in the tissue impedance, read as using increases and decreases in the tissue impedance as the basis to determine the length of the treatment period. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used query electrodes, an impedance measuring unit to monitor impedance increases and decreases, and a control system to regulate the energy of the high voltage generator in the Hofmann system in order to optimize patient treatment and avoid tissue damage (abstract; fig. 20; col. 1 @ 60- col. 2 @ 7; col. 2 @ 23-59; col. 7 @ 8-25; col. 12 @ 20 – col. 13 @ 45).

Claim Objection

3. Claim 71, line 6, is objected to because the line contains redundant “at”s.
4. Claim 76 is objected to because it appears in line 3 “means control” should be --means to control--.

Allowable Subject Matter

5. Claims 44-64, 67, 68, 70, 72, 73, 75, 77-79, 81 and 83-85 are allowed.

Statutory Basis

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Fran Oropeza whose telephone number is (703) 605-4355. The Examiner can normally be reached on Monday – Friday from 9 a.m. to 5:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Angela D. Sykes can be reached on (703) 308-5181. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Frances P. Oropeza
Patent Examiner
Art Unit 3762

FPO
2/4/05

Angela D. Sykes

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